

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**ROBIN MAYFIELD, ET AL.**

**PLAINTIFFS**

**VS.**

**CAUSE NO. 3:17-CV-00514-CWR-FKB**

**BUTLER SNOW, LLP, ET AL.**

**DEFENDANTS**

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**THE CITY OF MADISON, MISSISSIPPI'S AND MARY HAWKINS-BUTLER'S  
RULE 12(b)(6) MOTION TO DISMISS**

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The Defendants, the City of Madison, Mississippi, and Mary Hawkins-Butler, both individually and in her capacity as the Mayor of the City of Madison, Mississippi, by and through counsel move to dismiss Plaintiffs' Amended Complaint against them with prejudice pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, and in support thereof state as follows:

1. The Plaintiffs' claims against the City of Madison, Mississippi and Mary Hawkins-Butler under both federal and state law are time barred pursuant to the applicable statute of limitation. Accordingly, the Plaintiffs' have failed to state a claim upon which relief can be granted and their claims against these Defendants should be dismissed as a matter of law.
2. Additionally, these Defendants are entitled to qualified immunity from each of the Plaintiffs' constitutional claims against them under 42 U.S.C §1983. The Amended Complaint fails to set forth fact which Demonstrate that these Defendants violated Mark Mayfield's clearly established constitutional rights or that their conduct was objectively unreasonable under the circumstances.
3. The Amended Complaint also fails to state a federal claim against Mary Hawkins-Butler in her official capacity upon which relief can be granted. As an initial matter, Plaintiffs'

official capacity claims against this Defendant are duplicative of the claims against the City of Madison. For this reason, and to better organize the docket in this matter, the official capacity claims against this Defendant should be dismissed. Furthermore, the official capacity claims against this defendant fails as a matter of law because the factual allegations set forth in the Amended Complaint fail to demonstrate that Mark Mayfield's constitutional rights were violated.

4. These Defendants further have immunity from Plaintiffs' state law claims against them pursuant to the protections and immunities of the Mississippi Tort Claims Act

5. The Plaintiffs claims are barred by the MCTA and the failure to give statutory notice.

6. For all the foregoing reasons, and as discussed more fully in these Defendants' separate Memorandum of Authorities, which is fully incorporated herein by reference, the Amended Complaint fails to state a claim against any of these Defendants upon which relief can be granted, and Plaintiffs' claims against them should be dismissed with prejudice as a matter of law.

7. In support of their Motion to Dismiss, these Defendants rely on the following exhibits, which are already in the record as attachments to the Motion to Dismiss filed by Gene Waldrop, Vickie Currie and Chuck Harrison in [Document 21]:

"A" Incident Report

"B" Currie Affidavit and Arrest Warrant for Clayton Kelly

"C" Currie Affidavits and Arrest Warrants for John Mary

"D" Voluntary Statement of John Mary

"E" Currie Affidavits and Arrest Warrants for Richard Sager

“F” Currie Affidavit and Arrest Warrant for Mark Mayfield

“G” Harrison Affidavits and search Warrants for Mayfield Residence and Office

The aforesaid documents/exhibits are expressly incorporate herein by reference.

WHEREFORE, PREMISES CONSIDERED, these Defendants respectfully request the Court to grant their Rule 12(b)(6) Motion to Dismiss and to dismiss Plaintiffs’ claims against them with prejudice as a matter of law.

Dated: September 13, 2017

Respectfully Submitted,

/s/ Michael V. Cory, Jr.

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served via the Court's ECF system on the following counsel of record on September 13, 2017:

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